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## **ACCESS DISPUTES COMMITTEE**

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### **MINUTES of MEETING No. 11** held in London on 15 February 2007

#### **Present:**

John Czyrko (Central Trains)  
Tony Deighan (Eurostar (U.K.))  
Lindsay Durham (Freightliner)  
Gabrielle Ormandy (Network Rail)  
Nigel Oatway (English Welsh & Scottish Railway)  
Mike Price (First ScotRail)

#### **In attendance:**

Chris Blackman (Secretary)

#### **Apologies:**

Bill Davidson (Network Rail)  
Susie Homan (c2c Rail)

#### **11/0 Chairman of the meeting**

In the absence of the Disputes Chairman or a Vice-Chairman, Tony Deighan was elected deputy chairman for the meeting in accordance with Rule E1.14(a).

#### **11/1 Approval of Minutes of meeting no.10**

The Minutes of meeting no.10 were approved without modification. The deputy chairman signed a copy of the minutes as a true record of the proceedings.

#### **11/2 Matters arising from the minutes of the previous meeting**

There were no matters arising.

#### **11/3 Review of lease arrangements**

Members, in recalling the problems that had been encountered in entering a lease for the Committee's premises, noted the paper from Tony Deighan and additional papers containing legal advice received on two options to remedy the position. The Committee was not fully comfortable with either of the two options, although the majority of members present favoured the option of setting up a Company Limited by Guarantee (CLG). However, further advice is to be sought on how such a company would be constituted, who would be the members/directors of the CLG, and the nature of the involvement of the RIDR.

Members considered there was a third option, that a company within the railway industry should hold the lease of the Committee's premises on behalf of the Disputes Committees under some form of "legal" arrangement. This option needs to be explored quickly.

The Committee also wished to receive further advice on potential liability issues.

#### **11/4 The Committee Secretariat - succession planning**

Members, having noted that the Secretary had indicated his intention of retiring in the summer 2007, agreed that a job description should be prepared with adverts inviting expressions of interest to be placed in a small number of relevant magazines. It was considered that Rail Professional and Modern Railways would be the most suitable forum for such an advert, so the Secretary was remitted to establish alternative costs and to prepare a draft script for consideration by the Committee.

An interviewing Panel would be established, consisting of the Chairman and 3 members with the current Secretary in attendance.

Members were conscious that a suitable candidate may need to give 3 months notice to his existing employer, and thus would need to be fully recruited and trained by late July. An advert in the magazines' April edition is therefore essential.

#### **11/5 Costs of Arbitration (minute 6.10.1)**

Members noted the paper from the Secretary and supporting documentation on legal aspects, which they found helpful. Members had some suggestions for minor alterations to the document. Once these were made, Members wished the terms to be put to all Arbitrators on the existing Register, and to receive confirmation that they were acceptable. Arbitrators on the Registrar could indicate which level of fees they considered were applicable to them, having due regard to their experience and standing/seniority.

Alternatively Arbitrators on the Register could advise their own terms which could be compared to the standard terms.

The Secretary was also remitted to get further information from the CEDR, including likely rates of remuneration, and, if possible, details of a process for adjusting rates on a periodic basis.

#### **11/6 Minute 9/3 (and minute 10/2) Procedural Issues arising out of Reference ADP09**

Members noted the paper from Gabrielle Ormandy, to be presented to Industry Steering Group (ISG) the following day. Members wished ISG to be aware that the ADC's preference, regarding the appointment of an assessor, was for a second option, namely to amend the "frequently asked questions" on the ADC website to provide guidance on how to approach the Panel Chairman if earlier appointment of an assessor was considered by the Parties to be beneficial to the dispute.

#### **11/7 Any Other Business**

##### 11/7A FM Rail

The Secretary reported that FM Rail had been placed in administration, and currently owed the Committee settlement of an invoice for the annual levy payment. The Committee was one of a large numbers of creditors, many of whom were owed significant sums of money.

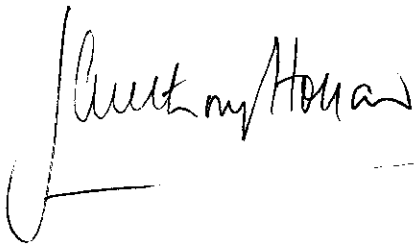
The Committee instructed the Secretary that further expenditure to retrieve the sum owed must be proportionate to the sum involved.

11/7B Levy – new Industry parties

The Secretary reported that the North Yorkshire Moors Railway and Grand Central Railway had each recently received approval from the ORR for its Track Access Agreement with Network Rail. The Committee instructed the Secretary, in the absence of any safety levy data, to raise a fair and reasonable levy payment on each company for the appropriate proportion of the current year.

**11/8 Date of next Meeting**

The next quarterly meeting will take place on Thursday 15 March commencing at 15.00.

A handwritten signature in black ink, appearing to read 'Anthony Horgan', with a long horizontal stroke extending to the right.